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In re Application of
ALLEN, DILLIS V.

Application No.: 09/955,899

Filing or 371(c) Date: September 19, 2001

Attorney Docket Number:

: MAY - 6 2010
:
: DECISION ON
: PETITION
:

This is a decision on the Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action, received in the United States Patent and Trademark Office (USPTO) on November 15, 2004.

The petition is **GRANTED**.

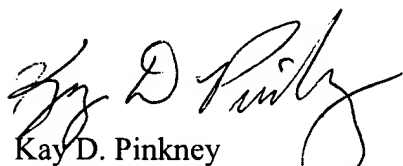
The above-identified application became abandoned for failure to reply to the Notice of Allowance and Issue Fee Due mailed on June 27, 2003, which set a three (3) months from it mailing date. No response was received within the allowable period, and the application became abandoned. A Notice of Abandonment was sent on December 12, 2003.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03 (c) of the *Manual Patent Examining Procedure* that requires the following:

This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Action Are Not Received" MPEP 711.03(c) II of the MPEP.

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn. The application will be forwarded to Technology Center 3700 for further processing that will include remailing the Notice of Allowance and Issue Fee Due and resetting of the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.



Kay D. Pinkney
Application Assistance Unit
Office of Data Management